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BOOK REVIEWS

MEN AND BOOKS FAMOUS IN THE LAW, by Frederick C. Hicks. (Rochester, N. Y.: The Lawyers Cooperative Publishing Co., 1921, pp. 259.)

The tracing of every legal principle to its original source in judicial precedent has left the law student of the present day sadly lacking in a knowledge of the life and social development out of which the common law has grown. Such a background cannot be obtained from adjudicated cases alone and a just valuation and intelligent application of the principles involved must be inseparably interwoven with the names of those famous in the chronicles of the law. The influence which the great commentaries, institutes and other authoritative pronouncements of individuals have had in moulding the true character and scope of common law doctrines as well as the true method and spirit of their application, cannot be overestimated. Their treatment by Professor Hicks "as truly biographical documents in the lives of their authors", is pleasing in that it lends an element of human interest which could not exist in a mere bibliography. The present tendency to relegate these works as savoring of pedantry and antiquity is successfully, if unwittingly, combatted by the author in portraying the numerous vicissitudes they encountered and overcame and the tremendous influence they exerted as formative instruments.

In turn Cowell, Littleton, Coke, Kent, Livingston and Wheaton are discussed with no attempt at strict biographical precision but in each case the events leading up to the preparation and publication of their works are recounted, as are the subsequent histories of these works. The idea is constantly borne in mind that "while they influenced the world through their books, their own lives were often very much affected by them".

The stories, in so far as possible, are told in the words of the writers themselves or their contemporaries which lends an added historic value to the collection. Excerpts from several of the books discussed are included and of particular interest are Chancellor Kent's notes to Livingston's Penal Code.

The author has not attempted a minute or exhaustive treatment of his subject and as "merely impressionistic sketches of men and books famous in the law, with glimpses here and there of the events and people of the time in which the books were written, published and read", it is in every way satisfactory, and it is to be hoped that a second volume dealing with others who have helped build the structure of legal literature, will be forthcoming.

J. WHITCOMB WELCH.

STORY ON EQUITY JURISPRUDENCE, Third English Edition, by A. E. Randall.
(London: Sweet and Maxwell, Limited, 1920, pp. XXXVII, 671.)

Since the appearance of Justice Story's work on Equity Jurisprudence almost a century ago, this work has been recognized as a classic of the law in both America and England. His interpretation of the equity jurisdiction ranks with his work in building up the admiralty law of the United States; and with his service on the bench of the Supreme Court of the United States as coadjutor of Chief Justice Marshall in interpreting the powers of the Federal government as granted to it by the States in the Constitution of the United States.

The Third English Edition of this work has the purpose of bringing the text up to date, correcting it to comply with the law as it exists at the present time. The author, as he says, found his main difficulty in correcting the inaccuracies without harm to the original work. The text, in his words, "is a recognized classic, and many passages have been adopted judicially. At the same time there are many statements which have been allowed to stand in previous editions, and which could not be supported at the present day. To allow the original text to remain unmodified would clearly mislead the student without assisting the practitioner." The author wisely incorporates the corrections in the text, not attempting to use the footnotes for this purpose. The chief advantage of this method is to insure the reader that he is always pursuing the law on his subject; and this does not put him on his guard to observe the footnotes at the expense of being misled by inaccuracies in the text.

The student of equity jurisprudence will find much valuable information in the first two chapters which treat of the nature, and of the origin and history of the subject. The chapter on "Account" is especially valuable in view of the fact that a discussion of this subject is seldom found in text-books, even to this day. This work is so well known that a detailed discussion of the outline or contents of the book is unnecessary. The rule laid down in the text is that a court of equity will refuse to administer purely legal relief where all equitable relief is denied, because it is said, that a court of equity can only administer a purely legal remedy as ancillary or supplemental to an award of some equitable relief. But it may be well to notice, however, that in the United States the rule has been established by the weight of authority that a court of equity, having assumed jurisdiction of a case upon *bona fide* allegations of the plaintiff of peculiar circumstances giving equity jurisdiction, may retain the bill and give complete legal relief, even though it is impossible or improper to grant any equitable relief. An example of this is an award of damages by a court of equity where it is not proper to decree specific performance.

No American cases are cited in this edition. English cases are cited principally, and generally without comment. The footnotes, therefore, are very much condensed and do not take up much space.

It seems unfortunate that the author of this revised edition did not make use of black letter type or small capitals to assist the practitioner in discovering the contents of paragraphs and subdivisions without having to go to the time and trouble of reading the text in detail. The use of special type to print brief statements of the contents of paragraphs or other subdivisions, and other mechanical features to enable the reader to determine the contents of a page, at a glance, is indeed a modern and important invention. It has in fact, become a necessary one. Certainly authors desire to provide for the convenience and comfort of their readers. Then, let them make use of all mechanical means for this purpose. Modern text writers usually do this, and generally in a satisfactory manner, though often capable of improvement. This is almost as necessary in revising and correcting texts as the alteration of the actual inaccuracies caused by the lapse of time.